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Attorney for Defendant
MARCOS LESMON BENAVIDEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No. CR. S-04-315-WBS
)	
Plaintiff,	)	STIPULATION AND REQUEST FOR
	)	CONTINUANCE AND FINDING OF
v.	)	EXCLUDABLE TIME UNDER THE
	)	SPEEDY TRIAL ACT AND LOCAL
MARCOS LESMON BENAVIDEZ,	)	CODE T4 and T2; ORDER
	)	EXCLUDING TIME
Defendant.)	
	)	Date: July 6, 2005
	)	Time: 9:00 a.m.
	)	Judge: Hon. William B. Shubb

It is hereby stipulated and agreed to between the United States of America through DANIEL LINHARDT, Assistant U.S. Attorney, and defendant, MARCOS LESMON BENAVIDEZ, by and through his counsel, RACHELLE BARBOUR, Assistant Federal Defender, that the status conference hearing set for May 18, 2005 be vacated and reset for July 6, 2005 at 9:00 a.m.

This continuance is requested because current defense counsel will soon be going out on maternity leave and will need time to transfer this case to new defense counsel and discuss the matter with new counsel and Mr. Benavidez. New counsel will need time to review and analyze discovery received from the government, and discuss it with Mr. Benavidez. Defense counsel has received over 3000 pages of claim documents from the government, which need to be discussed with Mr.

Benavidez. Defense counsel also received four audiotapes in Spanish. Defense counsel has requested additional investigative documents, including reports, copies of any witness interviews, and additional information from the investigating agent.

Both parties believe that based on the documents produced to date, and the outstanding documents sought by the defense, this case is complex under the standard set forth in Local Code T2 and United States Code section 3161(h)(8)(B)(ii). The Court has previously found that it is complex. Counsel ask for time to be excluded on that basis and for preparation of new defense counsel (Local Code T4).

All parties desire that a status conference be set on July 6, 2005. The parties further stipulate and agree that time from the date of the order below until July 6, 2005, be excluded under the Speedy Trial Act pursuant to Local Codes T2 and T4, Title 18, United States Code, Section 3161(h)(8)(B)(ii) and (iv), because the case is complex and to give new defense counsel reasonable time to prepare, conduct investigation, and discuss the case with Mr. Benavidez and the prosecutor.

Dated: May 19, 2005

Respectfully submitted,

QUIN DENVIR
Federal Public Defender

By /s/ Rachelle Barbour
RACHELLE BARBOUR
Assistant Federal Defender
Attorney for Defendant
MARCOS LESMON BENAVIDEZ

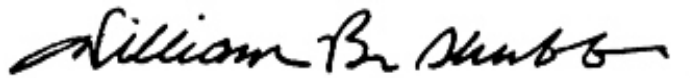
MCGREGOR SCOTT
United States Attorney

/s/ Rachelle Barbour for
DANIEL LINHARDT
Assistant U.S. Attorney
Attorney for Plaintiff

ORDER

IT IS SO ORDERED. The Court makes a finding of excludable time as set forth in the attached stipulation. The time between the date of this order through July 6, 2005, will be excluded under the Speedy Trial Act pursuant to Local Codes T2 and T4, Title 18, United States Code, Section 3161(h)(8)(B)(ii) and (iv). The Court specifically finds that the case is complex as provided in 18 U.S.C. § 3161(h)(8)(B)(ii). The court also specifically finds that a continuance is necessary to give counsel for the defendant reasonable time to prepare in this matter. The court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and the defendant in a speedy trial.

DATED: May 18, 2005



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE